

REMARKS

Prior to further examination and in consideration of the final Office Action mailed February 14, 2005, applicant respectfully requests entry of the amendments made in this Submission and reconsideration in view of the foregoing amendments and in view of the reasons that follow.

Status of Claims

Claims 1-10 and 12-15 were pending in the application (the disposition of claims in the final Office Action erroneously omitted claims 14 and 15). Claims 1, 6, 13, and 15 have been amended, claims 12 and 14 have been cancelled without prejudice or disclaimer, and no new claims have been added. Therefore, claims 1-10, 13, and 15 are pending in the application and are submitted for reconsideration.

Prior Art Rejections

In the Office Action, claims 1-10, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,430,831 ("Snellen"). Claims 1-10, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,565,858 ("Guthrie"). Claims 12 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DD in view of Snellen in view of Shame's Engineering Mechanics, Statics and Dynamics ("Shames"). Applicant respectfully traverses these rejections for at least the following reasons.

Each of the independent claims 1 and 6 recite a system (or method) in which, *inter alia*, (1) a first unit measures a position of each load and automatically transmits the measured position to a server, (2) the server develops an absolute physical position in the space based on the measured position, and (3) converts the absolute physical position for each load into a relative logical position defined by three units wherein the relative logical position is developed as a relative logical position that automatically changes relative to each of the other loads of the plurality of loads based on a current arrange of loads in the space. None of these three features is disclosed or suggested by Snellen or Guthrie.

Specifically, Snellen discloses a method of packing objects in a rectangular area using a technique that locates free areas or subareas such that free areas or subareas with a highest score for an object are used to store the object. However, Snellen does not disclose any of the three features listed above. *First*, Snellen does not disclose a first unit which measures a position of each load and *automatically transmits* the measured position to a server. *Second*, Snellen does not disclose a server that determines an absolute physical location (in the space) in accordance with the measured position. The Office Action alleges that Snellen measures *the dimensions* of an object to be placed in the space but this is irrelevant to the specific recited feature which requires that a server determine an absolute physical location (in the space) in accordance with the measured position. *Third*, Snellen does not disclose a second unit that develops the relative logical position for each load as *dynamic information* that *automatically changes* relative to each of the other of the plurality of loads (in the space) *based on a current arrangement of loads in the space*. Therefore, Snellen does not disclose several of the recited features in the pending independent claims when properly interpreted (even under the broadest REASONABLE standard).

The final Office Action does not provide any indication on how Guthrie reads on the specifically recited features in the pending claims. As noted earlier, Guthrie discloses a device which assists in locating a container *relative* to other containers (see Abstract and claim 1, for example), but fails to teach all the features of the claimed server or the claimed second unit (or corresponding method steps). Accordingly, Guthrie also does not disclose several of the recited features in the pending independent claims.

With respect to the obviousness rejection, the addition of Shames reference to indicate that some relative logical position may be indicated by Snellen does not cure any of the three deficiencies of Snellen identified earlier herein. Hence, the Office Action fails to make a *prima facie* case of obviousness with respect to the pending claims.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference" *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, (Fed. Cir. 1989). See MPEP §2131. In order for a

reference to be utilized as an anticipatory reference under the provisions of 35 U.S.C. § 102, the reference must disclose each and every claimed element. This is certainly not the case here, and thus the Sec. 102 rejection as to the pending independent claims should be withdrawn.

The dependent claims are also allowable for at least the same reasons as the independent claims on which they ultimately depend. In addition, they recite additional patentable features when considered as a whole.

Comments on Response to Arguments

In paragraph 12, the Office Action alleges that the definition of claimed server is not provided in the specification. This allegation is incorrect. The specification defines the server at page 4, lines 21-23, as a position-measuring server that receives the three-dimensional position of the load 20 or the pallet via an Ethernet 70 network. This definition is exactly equivalent to the definition provided by the applicant as would be recognized by even those the examiner classifies as having low skill in the art (i.e., familiar with the basics of computing systems and networking). An Ethernet refers one of the most widely used types computer network (that operates using the IEEE 802.3 ethernet protocol) and servers that connect to such networks are always programmed machines (such as computers). Furthermore, the source from where the server receives data is customarily called a client. Therefore, the assertions in paragraph 8 are incorrect both factually and legally.

With respect to paragraph 11, applicant notes that it is black letter law that claims are interpreted similarly for infringement and patentability purposes. Accordingly, any case that establishes the law for claim interpretation in the infringement context also establishes the standard for what is a “reasonable” interpretation for patentability purposes and thus is an integral part of the broadest “reasonable” interpretation used for examination.

Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge deposit account No. 19-0741 for any such fees; and applicant hereby petitions for any needed extension of time.

Respectfully submitted,

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